

REMARKS

Status of Claims and Amendment

Upon entry of this amendment, claims 1 and 9 will be amended. Claims 3-5 are canceled. New claims 22-27 are added. Claims 3-9 and 12-21 are withdrawn from consideration as being directed to a non-elected invention. Claims 1-2 and 10-11 are objected by the Office Action.

Claims 1 and 9 have been amended to even further clarify the claimed invention, and to delete the phrase “an amino acid substitution at position 166 of SEQ ID NO:1, or an amino acid substitution at both positions.”

Support for new claims 22-27 may be found throughout the original specification and original claims.

No new matter is added.

Request for Continued Examination and Amendment

Applicants thank the Examiner for acknowledgement of the Request for Continued Examination filed February 27, 2007, and the Amendment filed January 11, 2007.

Withdrawal of Rejections Under §§112 and 102(b)

Applicants thank the Examiner for withdrawal of the rejections to claims 1 and 10-11 under §112 for lack of written description and lack of enablement, as well as the prior art rejection to claims 1 and 10-11 under §102(b).

Election/Restriction Requirement

The Office Action has made the restriction requirement final in the previous Office Action mailed April 10, 2006. The Office Action maintains the restriction states that the amendment deleting "one or plural amino acids are added to or deleted from N-terminus of the amino acid sequence of SEQ ID NO: 1", does not change the core point that the claims allegedly lack unity because the claims do not share any technical feature aside from being variants of the polypeptide comprising SEQ ID NO: 1 that is unmodified, and which is known in the art (WO01/90375). The Office Action asserts that the structure of SEQ ID NO: 1 is not a special technical feature, because WO01/90375 teaches a protein that is 100% identical to SEQ ID NO: 1 (see sequence alignment).

The Office Action asserts that as discussed in the Restriction requirement dated December 29, 2005, the polynucleotide encoding a polypeptide cellulase of Group II and polypeptide cellulase of Group I are each unrelated and chemically distinct entities. The Office Action states that the "only shared technical feature of these groups is that they all relate to [a] polynucleotide encoding a polypeptide cellulase or polypeptide cellulose." The Office Action asserts that this shared technical feature is not a "special technical feature" as defined by PCT Rule 13.2 because it does not define a contribution over the art. The Office Action states that "[a]ccording to the search report (PCT form 210), a DNA encoding a cellulase as well as cellulase polypeptide is known in the art (WO01/90375, see IDS)." The Office Action asserts that "a DNA encoding a cellulase protein or a cellulase protein itself does not make [a] contribution over the prior art...[and] lacks unity of invention."

The Office Action also states that claim 3 is withdrawn as a non-elected invention because "Applicants elected Group I, and, SEQ ID NO: 3 (modified at position 162 of SEQ IDS

NO: 1) for prosecution without traverse in the response filed on 1/27/2006...[the Examiner notes] that there was an error to include claim 3 in the elected group...[because] claim 3...encompasses [non-elected] SEQ ID NO: 4”.

Applicants respectfully submit that the Office Action has erroneously asserted that Applicants’ election was made without traverse. Applicants direct the Examiner to the Replacement Response that was filed and received by the PTO on February 7, 2006, with traverse. As discussed in the Replacement Response and the present specification, the cellulose of the present invention makes a contribution over the prior art because of its advantageous properties, e.g., resistance to surfactants and higher activity under alkaline conditions in comparison to original cellulose NCE5. (See page 20, lines 7-8 and page 21, lines 10-17 of specification).

In addition, Applicants respectfully request rejoinder of at least non-elected claims 6-9 and 12-21 upon allowability or allowance of any of the elected claims.

Applicants reserve the right to file a Divisional Application directed to any non-elected claims that may not be rejoined.

Examiner’s Proposed Amendment

The Examiner asserts that an allowance of claims 1-2 and 10-11 was proposed with an Examiner’s amendment but that Applicants declined the proposed allowance. The Examiner indicated that claims 1, 2, 10, and 11 may be allowable by deleting the recitation to position 166 of SEQ ID NO:1.

Applicants note that as indicated by the Examiner, the amendment to claim 1 as discussed above should place the present pending claims in condition for allowance.

Response To Claim Objections

Claims 1, 10 and 11 are objected to as encompassing non-elected subject matter, i.e., the claims recite "substitution at position 166 of SEQ ID NO: 1", which the Examiner asserts corresponds to SEQ ID NO: 4. Claim 3 is objected to as depending from an objected to claim.

Applicants note that claim 1 has been amended to delete the phrase "an amino acid substitution at position 166 of SEQ ID NO:1, or an amino acid substitution at both positions."

Accordingly, withdrawal of the objection on these grounds is respectfully requested.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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Date: October 10, 2007